

Stoddard, Jamey

From: Stoddard, Jamey
Sent: Tuesday, October 27, 2015 3:35 PM
To: 'Berkner, Jason R POA'
Cc: 'Newman, Sheila M POA'; 'Reimer, Gary'; Grass, Running; Brown, Katherine
Subject: RE: PDSIES (UNCLASSIFIED)

Importance: High

Categories: Record Saved - Shared

Hi Jason-

Thank you for the email. It is unfortunate the HIA and EJ section will not be complete by the time the PDSEIS is released for cooperating agency review next month.

I will say it gives us significant concern the HIA and EJ sections may not even be complete/included in the DSEIS, per your email below. We would view a DSEIS that does not contain an EJ analysis as being incomplete and inconsistent with the available CEQ and EPA guidance on EJ and NEPA (see below).

I encourage you and the project team to take a close look at the EJ Executive Order as well as the Council on Environmental Quality's 1997 [Environmental Justice Guidance under the National Environmental Policy Act](#), and EPA's 1999 [Final Guidance for Consideration of Environmental Justice in Clean Air Act 309 Reviews](#) (i.e., NEPA 309 Review). I provide a few excerpts from those documents below:

Page 4 of CEQ Guidance re: EPA's 309 review, "...must ensure that the lead agency preparing NEPA analyses and documentation has appropriately analyzed environmental effects on minority populations, low-income populations, or Indian tribes, including human health, social, and economic effects." How can we do this if there is no EJ analysis?

A major component of the EJ Executive Order is meaningful and effective public involvement and participation. Failing to include the EJ analysis in the public Draft EIS would be inconsistent with this intent.

Per Page 14 of the CEQ Guidance: "Agencies should encourage the members of the communities that may suffer a disproportionately high and adverse human health or environmental effect from a proposed agency action to help develop and comment on possible alternatives to the proposed agency action as early as possible in the process." How would waiting to include the EJ analysis in the Final SEIS provide enough of an opportunity for members of the impacted community to participate and provide input?

Lastly, when we review and rate the DSEIS we will be looking to ensure the document adequately considers EJ issues, per the language below pulled from our [EJ/NEPA Review Guidance](#):

2.4.1 Rating the Environmental Impact

The EPA reviewer's rating for the environmental impact of the proposed action should consider environmental justice when: (a) minority populations, low-income populations, or Indian tribes are present in the area affected by the proposed action; and (b) there may exist disproportionately high and adverse human health or environmental effects on minority populations, low-income populations or Indian tribes.

2.4.2 Rating the Adequacy of the Impact Statement

The EPA reviewer's rating for the adequacy of the impact statement should consider environmental justice when: (a) the EIS fails to provide sufficient information to adequately address the question of whether or not minority or low-income populations are disproportionately affected; or (b) the EIS fails to draw a conclusion regarding the significance of a potential environmental justice impact.

We would welcome the opportunity to discuss this important issue with you further. If the decision is made to advance to the DSEIS stage prior to the completion of the HIA/EJ analysis we will want to elevate this to ensure Corps leadership is aware of the implications this may have for our review and rating of the DSEIS.

Thank you.

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-----Original Message-----

From: Berkner, Jason R POA [mailto:Jason.R.Berkner@usace.army.mil]
Sent: Tuesday, October 20, 2015 5:50 PM
To: Stoddard, Jamey
Subject: PDSIES (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Jamey, you had a question regarding the format for solicited comments on the PDEIS. It will be a table; as soon as I come across it again, I will forward to you. Also, you inquired about the HIA and EJ section. The HIA will not be complete by the time the PDSEIS is released for CA review. Since the EJ will incorporate information from the HIA, it will also not be complete for CA review. The hope is that both will be complete prior to the Draft. Let me know if you have anymore questions. THanks

Thanks,

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